

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HUSSAIN D. VAHIDALLAH,

Plaintiff,

vs.

CENTER FOR MEDICARE AND  
MEDICAID SERVICE - CMS,

Defendant.

CASE NO. 08cv843-L (JMA)

**ORDER DENYING PLAINTIFF'S  
MOTION TO PROCEED *IN FORMA*  
*PAUPERIS* AND DISMISSING  
ACTION WITHOUT PREJUDICE**

Plaintiff Hussain D. Vahidallah filed a complaint claiming that Defendant denied him Medicare benefits in violation of his rights under the Americans with Disabilities Act. Plaintiff did not pay the \$350 filing fee, but instead filed a motion to proceed *in forma pauperis* ("IFP"). For the reasons which follow, Plaintiff's motion is **DENIED**.

All parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff's initial motion to proceed IFP was denied by order filed May 12, 2008, because his declaration in support of the motion was incomplete. The complaint was

1 dismissed without prejudice and Plaintiff was granted 60 days' leave to pay the requisite  
2 filing fee or submit the required information regarding his financial status.

3 On May 29, 2008, Plaintiff filed a document purporting to be his renewed IFP  
4 motion captioned "Proceed *in forma pauperis* Pursuant to 28 U.S.C. § 1915(a)." Instead of  
5 providing the information which was missing from his initial motion, Plaintiff attached  
6 copies of the caption pages of two orders from cases he had previously filed in this district  
7 and where IFP status was granted. By order filed June 2, 2008 Plaintiff's renewed motion  
8 was denied because the most recent order in Plaintiff's other cases where IFP status was  
9 granted was more than a year old, and none of the documents attached to Plaintiff's  
10 renewed motion provided the financial information which was missing from Plaintiff's  
11 initial motion. Plaintiff was again granted 60 days' leave to pay the filing fee or re-file a  
12 motion to proceed IFP.

13 On June 6, 2008, Plaintiff again renewed his IFP motion. Although he used the  
14 requisite form, he did not provide the requisite information. Specifically, in answer to  
15 question no. 2.b., Plaintiff did not state the date of his last employment, the amount of  
16 wages and pay period, or the name and address of the last employer. In answer to question  
17 no. 4, Plaintiff did not state the address of the bank or the present balance(s) in his  
18 account(s). Plaintiff did not answer question no. 5. In answer to question no. 6, Plaintiff  
19 did not state the year or the model of his automobile. In answer to question no. 7, Plaintiff  
20 stated that he owned a house, however, he did not describe it or state its value. In answer to  
21 question no. 9, Plaintiff did not list his current debts, including amounts owed and to whom  
22 they were payable.


23 Accordingly, Plaintiff's application for IFP status is **DENIED** and the complaint is  
24 **DISMISSED** without prejudice. Plaintiff is granted 60 days' leave to pay the filing fee  
25 required to maintain this action pursuant to 28 U.S.C. § 1914, or to re-file a motion to  
26 proceed IFP. The court is not inclined to grant Plaintiff any further leave to provide  
27 financial information if Plaintiff chooses to re-file his IFP motion and fails to answer in full

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1 all the questions listed on the form captioned as Motion and Declaration Under Penalty of  
2 Perjury in Support of Motion to Proceed *in Forma Pauperis*.

3 **IT IS SO ORDERED.**

4  
5 DATED: June 10, 2008

6   
7 M. James Lorenz  
United States District Court Judge

8 COPY TO:

9 HON. JAN M. ADLER  
UNITED STATES MAGISTRATE JUDGE

10 ALL PARTIES/COUNSEL  
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